

### **REMARKS**

In the final Office Action<sup>1</sup>, the Examiner rejected claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Lumelsky (U.S. Patent No. 6,885,847, hereafter "*Lumelsky*") in view of Thompson et al. (U.S. Patent No. 5,812,093, hereafter "*Thompson*") and in further view of Yoshizawa (U.S. Patent No. 7,039,445, hereafter "*Yoshizawa*").

Applicants respectfully traverse the rejection of claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over *Lumelsky* in view of *Thompson*, and in further view of *Yoshizawa*. A *prima facie* case of obviousness has not been established.

Claim 8 recites a communication apparatus comprising, for example:

output power control means coupled to the transmission processing means and to the first and second antennas, the output power control means being for receiving the output of the transmission processing means and sending the output of the transmission processing means to the first antenna or the second antenna.

(Emphasis added). A *prima facie* case of obviousness has not been established, because, among other things, neither *Lumelsky*, nor *Thompson*, nor *Yoshizawa*, nor their combination, teaches or suggests each and every element of claim 8.

As the Examiner acknowledges, "Lumelsky and Thompson et al. fail to disclose output power control means," final Office Action at page 6. However, the Examiner relied on *Yoshizawa* in asserting, "Yoshizawa discloses a control information setting section (20b) (read as output power control means; see column 4, lines 56 - 65) for making the output of transmission data processing (22) (read as transmission

---

<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

processing means) output from antenna (25) (read as second antenna) when a station finding message (read as search signal) to find other stations (read as search for other communication devices) is used to transmit the output in predetermined intervals (read as predetermined state; see column 5, lines 40-48)," final Office Action at page 6. The Examiner further asserts, "In col. 4, lines 56-65, Yoshizawa discloses, 'control information section 20b can set a transmission power value.' Therefore, Yoshizawa's invention as disclosed comprises an apparatus to control transmission power," final Office Action at page 2. Applicants respectfully disagree.

*Yoshizawa* discloses in column 4, lines 43-51, the following:

In data transmission, the radio communication apparatus 19 converts transmission data received from the device body 20 through the data interface section 21 into an RF signal by using the transmission data processing section 22. The apparatus 19 then amplifies the RF signal by using the transmission amplifier 23 and radiates the signal from the antenna 25 through the antenna control section 24 (to be described in detail later with reference to FIG. 2).

(Emphasis added). Accordingly, in *Yoshizawa*, the control information setting section 20b (or, output power control means, according to the Examiner) included in the device body 20 sends the transmission data to the transmission data processing section 22 (or, transmission processing means, according to the Examiner), and the transmission data processing section 22 sends the RF signal converted from the transmission data to antenna 25. Therefore, *Yoshizawa* fails to teach or suggest "the output power control means being for receiving the output of the transmission processing means and sending the output of the transmission processing means to the first antenna or the second antenna," as recited in claim 8. The cited references, taken either alone or in any reasonable combination, thus fail to teach or suggest a

communication apparatus having the claimed output power control means. For at least this reason, *Lumelsky, Thompson, and Yoshizawa* fail to establish a *prima facie* case of obviousness. Accordingly, claims 8-10 are allowable.

Furthermore, *Yoshizawa* discloses in column 4, lines 43-51, the following:

The device body 20 has the functions of a display section 20a and the control information setting section 20b.

The device body 20 is comprised of the main components of an information processing device or the like, i.e., a processor, memory, storage unit, display unit, input unit, and the like. For example, the device body 20 is implemented by a computer designed to load a program recorded on a recording medium such as a CD-ROM, DVD, or magnetic disk and be controlled by the program.

(Emphasis added). Accordingly, even assuming the Examiner's characterization of *Yoshizawa* is correct, the alleged output power control means of *Yoshizawa* is included in a computer. For at least this reason, the requisite motivation to combine the cited references is also lacking. Specifically, a skilled artisan considering *Lumelsky, Thompson, and Yoshizawa*, without the benefit of Applicants' disclosure, would not have been motivated to combine the references in the manner alleged. The control information setting section 20b (or, output power control means, according to the Examiner) of *Yoshizawa* is included in a computer, not in a communication apparatus, while *Thompson* and *Lumelsky* disclose communication apparatuses. One of ordinary skill would not have looked to a full computer when designing a mobile communication apparatus.

For at least this additional reason, a *prima facie* case of obviousness has not been established with respect to claims 8-10, and the rejection of these claims under 35 U.S.C. § 103(a) should be withdrawn.

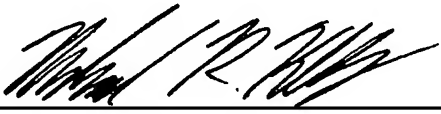
In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 19, 2007

By:   
Michael R. Kelly  
Reg. No. 33,921